IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 23336 of 2004

Between:

Siddivinavaka Varthaka Samkshema Sangam D. No. 5-2-18, Amalapuram E.G. District, rep by Secretary Nandula Venkateswara Rao S/o Sathi Raju R/o D. No. 5-2-18, Near Red Bridge,
Amalapuram E.G. District

..... PETITIONER

AND

1 The District Collector E.G. District at Kakinada
2 The Assistant Executive Engineer (R&B) Roads and Buildings, Amalapuram East Godavari District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned action of the 2nd respondent in issuing proceedings letter NO. Encroachment/G6/2004, dt 30-11-2004 for eviction of the petitioner society members as highly illegal without jurisdiction and also violative of Art. 14 of the Constitution of India apart from contrary to the provisions of A.P. Land Encroachment Act as well as A.P. Municipality Act and consequently set a side the same and pass such other order or orders in the interest of justice

Counsel for the Petitioner:MR.P.V.V.SATYANARAYANA

Counsel for the Respondents: GP FOR ROADS & BUILDINGS

The Court at the stage of admission made the following :

The Hon’ble Sri Justice

K.C. Bhanu

W.P. No. 23336 of 2004

O R D E R:

Challenging the encroachment proceedings Letter No. Encroachment/G6/2004 dated 30.11.2004, the present writ petition is filed.

Learned counsel for the petitioner contended that the 2nd respondent herein has no jurisdiction at all to invoke the provisions of Section 7 of the A.P. Land Encroachment Act and therefore the impugned proceedings are liable to be set aside.

On the other hand, learned Government Pleader for Roads & Buildings contended that under the Land Encroachment Act the Collector is the competent authority to evict the encroachers. Even according to the case of the petitioner, the members of the petitioner's Sangam have encroached into the Government land to eke out their livelihood by erecting vending units on the roadside.

Admittedly the 2nd respondent has no authority to issue impugned proceedings. Hence, the impugned proceedings suffers from serious legal infirmities and jurisdictional error as the revenue officials are the proper authorities to invoke the provisions under the A.P. Land Encroachment Act to evict the persons who are unauthorisedly occupying the Government land.

In the circumstances, the impugned proceedings are set aside and the writ petition is allowed. It is made clear that this order does not preclude the revenue officials to take appropriate action under the A.P. Land Encroachment Act to evict the persons who have unauthorisedly occupied the Government land, as per law.

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K.C. Bhanu, J.

Date: 15—12—2004.

MVB.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Collector E.G. District at Kakinada
2 The Assistant Executive Engineer (R&B) Roads and Buildings, Amalapuram East Godavari District

4. 2CCs to Government Pleader for Roads & Buildings, High Court Buildings, Hyderabad (OUT).

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